

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Petitioner,

v.

Case No. 07-C-536

HECTOR DURAN-MARTINEZ,

Movant.

ORDER

Movant, Hector Duran-Martinez, filed a motion for post-conviction relief pursuant to 28 U.S.C. § 2255. Duran-Martinez was previously convicted of illegal reentry after deportation after his plea of guilty. He was sentenced to 70 months imprisonment and judgment was entered on June 13, 2006. In his motion seeking post-conviction relief, Duran-Martinez argues that his attorney was ineffective in failing to investigate after he told her that at least one of the prior charges had been dismissed and, further, that his rights under the Vienna Convention on Consular Relations had been violated.

In its response, the Government points out that Duran-Martinez had more than one previous conviction for an aggravated felony, and thus even if one is invalid, no prejudice has been shown. In addition, the Government points out that Duran-Martinez fails to indicate in what respect his rights under the Vienna Convention were violated.

Presently before me is Hector Martinez' motion for a stay, or in the alternative an extension of time in which to respond. Hector Martinez states that he was represented by an attorney in the

state proceedings that led to the prior convictions who has since been disbarred. He states that he needs more time to investigate in order to establish that one of more of the convictions were unlawful and should be vacated.

I am not satisfied that Duran-Martinez has stated adequate grounds to stay this matter. The court does not intend to stay the matter indefinitely so that Duran-Martinez can mount a challenge to state convictions that are now several years old. Instead, the court will grant a thirty day extension of time in which Duran-Martinez should file his reply. If he believes that evidence is unavailable that warrants a further extension of time, he may so indicate in his reply. The court will further consider his request at that time.

Accordingly, Duran-Martinez shall file his reply on or before November 4, 2007.

SO ORDERED this 2nd day of October, 2007.

s/ William C. Griesbach
William C. Griesbach
United States District Judge